

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG DIVISION**

ROBERT MCGREGOR,)
)
Plaintiff,)
) No. 1:12-cv-180 (Keeley)
vs.) Electronically Filed: December 18, 2012
)
PIONEER CREDIT RECOVERY, INC.,) **JURY DEMAND ENDORSED HEREON**
)
Defendant.)

COMPLAINT

NOW COMES the Plaintiff, ROBERT MCGREGOR, by and through his attorneys, LUXENBURG & LEVIN, LLC, and for his Complaint against the Defendant, PIONEER CREDIT RECOVERY, INC., Plaintiff alleges and states as follows:

PRELIMINARY STATEMENT

1. This is an action for damages for violations of the Fair Debt Collection Practices Act (hereinafter the “FDCPA”), 15 U.S.C. § 1692, *et seq.*, and the West Virginia Consumer Credit and Protection Act (hereinafter the “WVCCPA”), W. Va. Code § 46-A-2-122, *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction arises under the FDCPA, 15 U.S.C. § 1692, *et seq.* Venue lies properly in this district pursuant to 28 U.S.C. § 1331(b), as a substantial part of the events and omissions giving rise to the claim occurred within this District.

PARTIES

3. Plaintiff is an individual who was at all relevant times residing in Terra Alta, West Virginia.

4. Plaintiff is a “consumer” as defined in 15 U.S.C. § 1692a(3) and W. Va. Code § 46-A-2-122(a), as he is a natural person allegedly obligated to pay a debt owed to United Student Aid Funds, Inc.

5. At all relevant times, Defendant acted as a “debt collector” within the meaning of 15 U.S.C. § 1692a(6) and W. Va. Code § 46-A-2-122(d), in that it held itself out to be a company collecting a consumer debt allegedly owed by Plaintiff.

6. The aforementioned alleged debt is a “debt” within the meaning of 15 U.S.C. § 1692a(5), in that it is an alleged obligation of Plaintiff to pay money arising out of a transaction in which the money, property, insurance and/or services which are the subject of the transaction were primarily for personal, family and/or household purposes. Specifically, Defendant has alleged that Plaintiff incurred the alleged debt by co-signing for a student loan for his son. However, Plaintiff denies that he ever co-signed any such student loan documents and believes that his signature on those documents was forged.

7. On information and belief, Defendant is a corporation of the State of Delaware, which is licensed to do business in West Virginia and which has its principal place of business in Arcade, New York.

COUNT I

(Violation of the Fair Debt Collection Practices Act)

8. On or about July 11, 2012, the undersigned counsel for Plaintiff sent written correspondence to Defendant via U.S. Mail, advising Defendant that he was representing Plaintiff in regard to the aforementioned alleged debt.

9. On or about July 17, 2012, the undersigned counsel for Plaintiff sent additional written correspondence to Defendant via facsimile transmission, advising Defendant that he was representing Plaintiff in regard to the aforementioned alleged debt.

10. Despite having received said notice of representation of Plaintiff from the undersigned counsel, on or about July 16 and 17, 2012, Defendant caused two pieces of written correspondence regarding the alleged debt to be mailed to Plaintiff, thereby communicating directly with Plaintiff.

11. In its attempts to collect the aforementioned alleged debt, Defendant violated the FDCPA in one or more of the following ways:

- a. Communicating with Plaintiff after Defendant had been advised that he was represented by an attorney with respect to the alleged debt, in violation of 15 U.S.C. § 1692c(a)(2); and
- b. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA.

WHEREFORE, Plaintiff, ROBERT MCGREGOR, respectfully prays for a judgment against Defendant as follows:

- a. Statutory damages of \$1,000.00 for each violation of the FDCPA;
- b. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff; and
- c. Any other relief deemed appropriate by this Honorable Court.

COUNT II

(Violation of the West Virginia Consumer Credit and Protection Act)

12. Plaintiff hereby adopts, re-alleges and incorporates by reference all allegations set forth above as though fully rewritten here.

13. In its attempts to collect the aforementioned alleged debt, Defendant violated the WVCCPA in one or more of the following ways:

- a. Communicating with Plaintiff after Defendant had been advised that he was represented by an attorney with respect to the alleged debt, in violation of W. Va. Code § 46A-2-128(e); and
- b. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the WVCCPA.

WHEREFORE, Plaintiff, ROBERT MCGREGOR, respectfully prays for a judgment against Defendant as follows:

- a. Statutory damages of \$1,000.00 for each violation of the WVCCPA;
- b. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff; and
- c. Any other relief deemed appropriate by this Honorable Court.

JURY DEMAND

Pursuant to Civil Rule 38, Plaintiff hereby demands a trial by jury on all issues in this action, except for any issues relating to the amount of attorneys' fees and litigation costs to be awarded should Plaintiff prevail on any of his claims in this action.

Respectfully Submitted,

/s/ David B. Levin
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